



February 6, 2008

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: Further Notice of Proposed Rulemaking In the Matter of Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments, MB Docket No. 07-51

Dear Ms. Dortch:

This letter is written in response to the above-captioned Report and Order and Further Notice of Proposed Rulemaking released by the Commission on November 13, 2007, in which the Commission seeks comment on whether, among other things, it should prohibit exclusive marketing and bulk billing arrangements between video providers and MDU building owners. (the "FNPRM").

Post Properties, Inc. is in the multifamily industry as a Real Estate Investment Trust (REIT) with a total of **63** apartment communities with approximately **22,578** apartment residences located in **7** states and the District of Columbia. Approximately **90%** of our communities are covered by some form of exclusive marketing agreement for the provision of video services. Approximately **95%** of our communities are covered by some form of exclusive marketing agreement for the provision of voice services. Currently, none of our communities are covered by any form of bulk billing arrangement for the provision of any type of telecommunications service.



We are opposed to any prohibition of exclusive marketing clauses and bulk billing arrangements, primarily, because we believe that such a prohibition would adversely affect the conduct of our business, and the satisfaction of our residents, without justification. We question whether the Commission has the authority to regulate the activities of property owners in this way. It is imperative that we retain the authority to enter into any type of marketing agreement that is in the best interest of our residents and our community operations.

We enter into exclusive marketing agreements for two reasons. First, most apartment communities have limited infrastructure to support multiple service providers. As such we must have the ability to select the best available providers to deliver the services our resident demand. Marketing agreements allow owners and providers to develop relationships that provide the best possible services, at the most competitive prices available. In addition to service and price, these agreements provide owners with leverage to ensure that providers deliver on the services promised and allow for owners to remove poorly performing providers. Without these agreements, owners have no leverage and thus no recourse for the residents should a provider(s) perform badly.

The second reason for these agreements is to recover the ever increasing cost of communications infrastructure that we incur when we construct new buildings and upgrade the wiring in existing buildings. Video providers and voice providers (as the case may be) agree to pay some of the costs of the communications



infrastructure in exchange for exclusive marketing rights. Without the ability to enter into exclusive marketing agreements, we would have to bear the full cost of wiring new buildings and upgrading the wiring in existing buildings. This would hurt our competitive position in the apartment market, as we would be forced to pass these costs through to our residents in the form of higher rents.

When it comes time to upgrade the communications infrastructure in existing buildings, we generally require wiring upgrades to be at the cost of the service provider. This is because we are not in the business of designing and installing wiring infrastructure. Providers are usually only willing to undertake these upgrades in return for exclusive marketing agreements. We have very limited capital budgets and many competing capital expenditure priorities. If we can no longer enter into exclusive marketing agreements in exchange for wiring upgrades, there is a great risk that communications infrastructure upgrades will be severely delayed, or not undertaken at all. In addition, any costs we absorb must be passed through to our residents, which would negatively impact our ability to compete in the rental apartment market.

While we do not currently offer bulk service arrangements to our residents, we are opposed to any prohibition of such arrangements as we believe this to be outside the scope of the FCC's authority and could adversely affect the conduct of our business and the satisfaction of our residents should such an arrangement become viable for our company. In our experience, in some buildings and in some markets, residents like the convenience of having a move-in ready unit, where they



do not have to make arrangements for video service installation, and pay for this service separately from their rent. Moreover, bulk billing rates are negotiated with up to a 50% discount to regular market rates which realizes a significant cost savings for residents. If in fact the goal of the FCC is to lower cable prices, then striking down bulk arrangements would be counter to that effort. If bulk billing arrangements were banned, owners would be unable to offer residents this amenity with its inherent convenience and cost-savings benefits.

In conclusion, we urge the Commission not to ban exclusive marketing arrangements and bulk billing arrangements. To do so would reduce our ability to provide state-of-the art communications infrastructure and to ensure low service rates to our residents.

Thank you for your attention to our concerns.

Sincerely,

Stephen J. Sadler
Vice President, Ancillary Service
Post Apartment Management

Cc:

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